

PUBLIC NOTICE

**U.S. DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION; U.S. DEPARTMENT OF THE INTERIOR, U.S. FISH AND
WILDLIFE SERVICE; THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY;
THE LUMMI NATION OF WASHINGTON; THE NOOKSACK TRIBE OF
WASHINGTON; AND THE CITY OF BELLINGHAM.**

NOTICE OF INTENT TO CONDUCT RESTORATION PLANNING

pursuant to 15 C.F.R. § 990.44
(61 Fed.Reg. 440, January 5, 1996)

WHATCOM CREEK GASOLINE SPILL INCIDENT - June 10, 1999

On or about June 10, 1999, a gasoline pipeline owned and operated by the Olympic Pipe Line Company ruptured and discharged approximately 236,000 gallons of gasoline into Hanna Creek and subsequently into Whatcom Creek in Bellingham, Washington. The gasoline spill is referred to in this Notice of Intent to Conduct Restoration Planning ("Notice") as the "Incident."

The natural resource Trustees ("Trustees") for this Incident are the National Oceanic and Atmospheric Administration, U.S. Department of Commerce ("NOAA"); the U.S. Fish and Wildlife Service, U.S. Department of the Interior ("DOI"); the State of Washington Department of Ecology ("Ecology"); the Lummi Nation; the Nooksack Tribe of Washington; and the City of Bellingham. The Trustees are designated pursuant to the National Contingency Plan, 40 C.F.R. §§ 300.600 and 300.605.

The Responsible Party ("RP") is the Olympic Pipe Line Company. To date, the RP has cooperated with Trustees in the performance and/or funding of certain response, cleanup, and data collection activities, and preliminary restoration planning.

Administrative Record

The Trustees have opened an Administrative Record ("Record") in compliance with 15 C.F.R. § 990.45. The Record will include documents relied upon by the Trustees during the preassessment performed in connection with the Incident. To date, the Record contains:

- (1) A copy of this Notice; and

(2) A copy of the Whatcom Creek Incident Preassessment Data Report ("Report") dated April 2000.

The Record is on file at the City of Bellingham Department of Public Works, 2221 Pacific Street, Bellingham, Washington. Arrangements may be made to review the Record by contacting Clare Fogelsong at this address or by calling him at (360) 676-6850.

Trustees' Determinations

(a) Determination of Jurisdiction.

The Trustees have made the following findings pursuant to 15 C.F.R. § 990.41:

(1) The Trustees have jurisdiction to pursue restoration pursuant to the Oil Pollution Act, 33 U.S.C. §§ 2702 and 2706(c). The spill of approximately 236,000 gallons of gasoline from the Olympic pipeline and resulting fire on or about June 10, 1999, into the waters of Hanna Creek and Whatcom Creek and adjacent to Whatcom Park in Bellingham, Washington was an incident as defined at 15 C.F.R. § 990.30.

(2) The pipeline, a facility as defined at 33 U.S.C § 2701 (9), discharged the entire quantity of gasoline involved in this Incident.

(3) The pipeline discharged gasoline into or upon navigable waters of the United States, including the Exclusive Economic Zone, the territorial sea and adjoining shorelines, which include federal and state waters of Hanna Creek, Whatcom Creek and Bellingham Bay.

(4) Olympic Pipe Line Company is a person as defined in 33 U.S.C. § 2701(27).

(5) This Incident was not permitted under federal, state, or local law.

(6) The Olympic pipeline is not a public vessel, as defined at 33 U.S.C. § 2701(29) and 15 C.F.R. § 990.30.

(7) The discharge of gasoline did not occur from an onshore facility subject to the Trans-Alaska Pipeline Authority.

(8) Based upon information gathered during the response, cleanup, and preassessment phases, the Trustees have determined that, due to the amount and type of gasoline spilled, the known toxicity of the gasoline, the location of the spill and the living and non-living natural resources in the area at the time of the spill (including but not limited to resident and anadromous fish, riparian and upland vegetation, invertebrates, birds and other wildlife, stream sediments and soils, water, and public and/or cultural uses), natural resources under the trusteeship of NOAA, DOI, Ecology, the Lummi Nation, the Nooksack Tribe, and/or the City of Bellingham, have been injured as a result of the Incident.

(b) Determinations on Restoration Planning.

The Trustees have determined , pursuant to 15 C.F.R. § 990.42(a), that:

(1) Data collected and analyzed pursuant to 15 C.F.R. § 990.43 demonstrate that injuries to natural resources are likely to have resulted from the Incident, including but not limited to the following:

(A) Resident and anadromous fish, including acute mortality, habitat loss, and potentially sublethal impacts to adult, juvenile, and larval fish;

(B) Riparian and upland vegetation, including acute mortality, delayed mortality, and sublethal impacts to trees, shrubs, vines, and other stream-side vegetation;

(C) Invertebrates, including acute mortality, habitat loss, and potentially sublethal impacts to adult, juvenile, and larval invertebrates;

(D) Wildlife, including direct mortality of river otters and birds, and loss of habitat for otters, beavers, birds, amphibians, reptiles, and terrestrial mammals;

(E) Stream sediments and soils of the riparian zone, including contamination of sediments and pore waters at levels of concern for invertebrates and fish, and saturation of soils near the break site and along Hanna Creek;

(F) Water, including exceedances of acceptable water quality criteria for temperature, polyaromatic

hydrocarbons, D.O., suspended sediments, and other criteria; and

(G) Public uses, including lost use of Whatcom Park and trails along stream outside of park, restricted uses to facilitate recovery, loss of recreational fishing, passive and aesthetic losses, and closure of roads and bridges.

(H) Cultural uses, including direct injuries to plants and animals used by tribal members including loss of resident and anadromous fish, loss of trees and other vegetation, and general degradation of lands, waters, and other natural resources considered important by the local tribes.

(2) Response actions during cleanup have not adequately addressed the injuries resulting from the Incident. Response actions were limited to surveying and mapping of the incident area, evaluation of environmental components, mobilization of product from the streambed sediments, removal of woody debris that had been saturated with the spilled product, initial control of invasive non-native plant species, stream bed reconfiguration, placement of large woody debris structures for habitat and erosion control, and monitoring of water quality, vegetation, macroinvertebrates, and fish because: a) the spilled gasoline was ignited shortly after being discharged and therefore much of the product was burned or volatilized; and b) limited ability to replant vegetation due to consideration of optimal planting season (late winter to spring); and c) need to develop a plan before pursuing additional response activities.

(3) Potential assessment procedures to be used to evaluate injuries and to design and implement the appropriate type and scale of restoration for these injured natural resources and services consist of: a) field studies, to include sampling of fish, sediment, water, birds and collection of economic data; b) computer modeling efforts; c) data collection; and d) data analyses.

(4) Feasible primary and compensatory restoration actions exist to address injuries from the Incident. Restoration activities are expected to focus on resident and anadromous fish, riparian and upland vegetation, invertebrates, birds and other wildlife, stream sediments and soils, water, and public uses. Restoration could include actions to enhance salmonid stocks and invertebrates, reestablish riparian and

upland vegetation, create habitat for selected fish species, monitor selected environmental parameters, public access, and land acquisition. Feasible restoration actions relevant to the injuries may include, but are not necessarily limited to:

- (A) Land acquisition;
- (B) Restoration of public access to park.
- (C) Enhancement, protection and creation of salmonid and other fish habitat;
- (D) Additional plantings and continued control of invasive species;
- (E) Erosion control.
- (F) Restoration of vegetation.

Data supporting these determinations are contained in the Report on file in the Record.

Based upon the foregoing determinations, the Trustees have therefore determined to proceed with restoration planning for this Incident.

Opportunity to Comment

Pursuant to 15 C.F.R. § 990.14(d), the Trustees seek public involvement in restoration planning for this spill, through public review of, and comment on the Draft and Final Restoration Plans when they have been prepared.

Comments should be sent to the following address:

Douglas Helton
NOAA Damage Assessment Center
7600 Sand Point Way NE
Seattle, WA 98115
Phone: 206-526-4563
Fax: 206-526-6665
EMAIL: Doug.Helton@noaa.gov

The comments, once received, will be distributed to the other Trustees.

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